

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CREATIVE DIMENSIONS IN	:	CIVIL ACTION
MANAGEMENT, INC.	:	
	:	
v.	:	
	:	
THOMAS GROUP, INC. and	:	NO. 96-6318

MEMORANDUM ORDER

Counsel for the parties appear to be expending almost as much effort in seeking to delay the trial of this case as they have in litigating it. In so doing, they have ignored the court proscription of conducting litigation by correspondence as set forth in the court's scheduling order and statement of standard practices.

On February 25, 1999, counsel filed a joint Motion for a Date Certain for Trial or at least 20 Days Prior Notice because of the number of prospective witnesses and the distances some must travel. This would be the fourth continuance of the trial of this case. In its initial scheduling order, the court directed that the case be placed in the trial pool on July 1, 1998. In response to various requests from one or both of the parties, the court continued trial of this case to September 1, 1998, then to November 2, 1998 and then again to March 1, 1999. These continuance were necessitated, at least in part, by the parties' failure timely to conduct discovery.

At the time the court received the instant motion, it also received a motion of defendant for leave to take additional depositions. The court granted that motion and it was then apparent that the case would not be ready for trial in early March. The court, however, directed that these depositions be completed by March 15, 1999 so that the case could be called to trial on March 17th. Following the entry of that order, the court has received a flurry of telefaxes and correspondence from counsel regarding purported difficulties with the commencement of trial in this case.

By correspondence of March 4, 1999, the court was advised that defendant's Texas and local counsel had developed respiratory infections which had complicated their ability to prepare for trial. By letter of March 9, 1999, defendant's local counsel advised the court that he had also scheduled a vacation through April 4th, presumably to commence sometime after his recovery. By letter of March 10, 1999, plaintiff's counsel advised that he was imminently about to be called to try a case in the Philadelphia Court of Common Pleas and requested that this court set a trial date in this case for the week of March 15th, following the completion of the additional depositions. By letter of March 10, 1999, defendant's Texas counsel objected to that request and suggested that it was in bad faith in view of plaintiff's counsel's concurrence in the February 25th motion.

In his response of March 11, 1999, plaintiff's counsel correctly surmised that in setting a March 15th deadline for the additional depositions, the court hoped at last to move this case to trial on March 17th. The court was then advised by correspondence of March 12, 1999 that plaintiff's local had been called to commence trial in the Philadelphia Court of Common Pleas in another case on March 16th and thus faced a "calamity." In none of this correspondence does anyone make clear just what the authority and role of local counsel are in this case or whether their presence in court for trial is even required.*

The court, however, does not wish to interfere with the trial scheduled in the Court of Common Pleas and will honor that Court's request for the attendance of plaintiff's local counsel for a trial tomorrow. While one cannot generally predict when he may take ill, counsel could have earlier advised the deputy clerk of his vacation plans. Nevertheless, the court will attempt not to interfere with counsel's vacation. While counsel have had more than ample time to complete discovery and prepare for trial in this case, the court will accede to their request for twenty days advance notice of trial and will set a date certain which

* The court was recently advised that local counsel for the parties had agreed to a settlement in principle of their dispute at a conference with a magistrate judge, but that they were overruled by lead Texas counsel and the agreement collapsed.

will not be continued absent the most extraordinary
unanticipatable circumstances.

ACCORDINGLY, this day of March, 1999, **IT IS**
HEREBY ORDERED that the Motion for a Date Certain or Twenty Days
Notice of Trial (Doc. #80) is **GRANTED** in that trial of the above
case will now commence at 10:00 a.m. on Monday, April 19, 1999 in
Courtroom 9B, Ninth Floor, U.S. Courthouse, 601 Market Street,
Philadelphia.

BY THE COURT:

JAY C. WALDMAN, J.